

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 90709-001

v

United Healthcare Insurance Company
Respondent

Issued and entered
this 9th day of September 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On July 1, 2008, XXXXX (Petitioner) filed a request for external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner of the Office of Financial and Insurance Regulation accepted the request on July 8, 2008.

The case involves medical issues so the Commissioner assigned the matter to an independent review organization (IRO) and requested the opinion of a medical expert. On July 22, 2008, the IRO completed its review and sent its recommendation to the Commissioner.

II
FACTUAL BACKGROUND

The Petitioner has group health insurance coverage from United Healthcare Insurance Company (United) through his employment. His benefits are defined in the United Healthcare Choice Plus certificate of coverage (the certificate) and its applicable riders, amendments, and notices.

On December 14, 2007, the Petitioner had radiology services at XXXXX performed by XXXXX, PC. United denied all coverage for the facility and professional charges for these services.

The Petitioner appealed. At the conclusion of the internal grievance process, United upheld its denial and sent the Petitioner a final adverse determination dated May 5, 2008.

III ISSUE

Did United correctly deny coverage for the Petitioner's radiology services on December 14, 2008?

IV ANALYSIS

Petitioner's Argument

XXXXX, DDS, writing on March 30, 2008, explained the Petitioner's situation:

[The Petitioner] presented to my office on November 26, 2007 with an acute episode of inability to open his jaws and numbness of the left face and jaw. My diagnosis was muscle spasm of the jaws...and a strain of the left jaw.... The treatment plan I presented to [the Petitioner] included conservative therapy using heat and anti-inflammatory medicines along with resting his jaws. He presented again approximately two weeks later and the symptoms had not improved. Therefore, to rule out pathology, I ordered an MRI of the jaw joint region. This procedure was not done for routine TMJ [temporomandibular joint syndrome] pathology. The study was negative for any significant pathology and [the Petitioner] slowly improved with time and conservative treatment.

The Petitioner says the radiology was done to rule out pathology and the numbness he experienced was not part of a problem with TMJ. He believes the services he received should be covered by United.

United Healthcare's Argument

In its final adverse determination, United said it denied coverage because the services for TMJ are specifically excluded in the certificate. In "Section 2: Exclusions and Limitations," the certificate says:

The services, treatments, items or supplies listed in this section are not Covered Health Services, except as may be specifically provided for in

Section 1: Covered Health Services or through a Rider to the Policy.

* * *

M. Procedures and Treatments

* * *

9. Services for the evaluation and treatment of temporomandibular joint syndrome (TMJ), whether the services are considered to be medical or dental in nature.

United believes it correctly denied coverage under the terms of the certificate.

Commissioner's Review

The Commissioner assigned this matter to an IRO for a recommendation on whether or not the radiology services the Petitioner received were for the evaluation and treatment of TMJ.

The IRO expert that reviewed this case is certified by the American Board of Oral and Maxillofacial Surgery; is an associate professor and director of the oral and maxillofacial surgery department of a university-based school of dentistry; is a fellow of the American College of Oral and Maxillofacial Surgeons; is published in peer-reviewed literature; and is in active practice. The IRO expert concluded that the Petitioner's radiology diagnostic services were related to TMJ.

The IRO report said:

It is the determination of this reviewer that the diagnostic services rendered by XXXXX were for evaluation of TMJ. The primary purpose of the MRI was for TMJ diagnosis, which is not covered under the [Ppetitioner's] contract.

The medical information provided in this case is limited. The letter from Dr. XXXXX dated March 30, 2008 is silent on the range of the enrollee's perceived numbness, the extent to which the [Ppetitioner] could or could not open his jaw (number of finger widths or millimeters), a neurological review, findings of a head and neck examination, joint palpitation, past medical history, or present medical illnesses which would lead one to consider causes other than TMJ, mandible and maxilla. [Citations omitted] That Dr. XXXXX ordered an MRI would be consistent with the standard of care for the diagnosis of TMJ pathology. [Citations omitted] * * *

It is the recommendation of this reviewer that the denial of coverage issued by United Healthcare for services the [Ppetitioner] received on December 14, 2007 at XXXXX (CPT code 70336 – Magnetic resonance imaging, temporomandibular joints) be upheld.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; in a decision to

uphold or reverse an adverse determination the Commissioner must cite “the principal reason or reasons why the Commissioner did not follow the assigned independent review organization’s recommendation.” MCL 550.1911(16) (b). The IRO reviewer’s analysis is based on extensive expertise and professional judgment and the Commissioner can discern no reason why the recommendation should be rejected in the present case.

The Commissioner concludes and finds that the radiology services on December 14, 2007, were for the evaluation and treatment of TMJ and therefore excluded from coverage under the terms and conditions of the certificate.

IV ORDER

The Commissioner upholds United Healthcare Insurance Company’s final adverse determination of May 5, 2008, denying coverage for the Petitioner’s radiology services on December 14, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, P. O. Box 30220, Lansing, MI 48909-7720.